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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,557

11/28/2005

Bodo W. Lambertz

DD-25017

7025

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02/27/2009

EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/542,557	LAMBERTZ, BODO W.	
	Examiner	Art Unit	
	Alissa L. Hoey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2008.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

This is in response to amendment received on 12/22/08. Claims 1, 4, 9 and 12 have been amended, claims 18-20 cancelled and claims 21-23 are newly added.

### *Claim Objections*

1. Claims 1-17 and 21-23 are objected to because of the following informalities: the claims are confusing because the terms "climate channel", "climate channels", "central channel", "air channels" and "at least one climate channels", it is unclear in the claims which channels are which. Please amend the claims so that all the channels have different names so as not to avoid confusion. Further, identifier 25 in the claims is used to illustrate both the climate channel and the air channels. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5 -7, 10-12, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lambertz (US 6,286,151).

Lambertz teaches the following:

1. (Currently Amended)

A sock (in particular) for use in athletic activities having a

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foot portion (1) and a shaft portion (2), the foot portion having a toe area (11), a heel area (12), and a tread area (13) between the toe area and the heel area, a climate channel (25) extending from the shaft portion (2) to the tread area, at least one climate channel (26) (is provided) in the tread area (13), communicating with the climate channel (25) for removing moisture from the tread area when the sock is worn for athletic activities.

3. (Previously Presented) A sock according to Claim 1, characterized in that the climate channels (26) have a curved shape in the tread area (13).

5. (Previously Presented) A sock according to Claim 1, characterized that the climate channels (26) are partially tapered (261).

6. (Previously Presented) A sock according to Claim 1, characterized in that the climate channels (26) have an essentially circular cross section.

7. (Previously Presented) A sock according to Claim 1, characterized in that the climate channels (26) are connected to one another through a central channel (262).

10. (Previously Presented) A sock according to Claim 1, characterized in that the climate channel (26) is made of climate-regulating mesh knit fabric.

11. (Previously Presented) A sock according to Claim 1, characterized in that the sock is equipped with an X-cross bandage (24).

12. (Currently Amended) A sock according to [of] Claim 1, characterized in that the sock has padding 22, 23).

14. (Previously Presented) A sock according to Claim 3, characterized in that the climate channels (26) are partially tapered (261).

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16. (Previously Presented) A sock according to Claim 3, characterized in that the climate channels (26) have an essentially circular cross section.

17. (Previously Presented) A sock according to Claim 5, characterized in that the climate channels (26) have an essentially circular cross section.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 4, 8, 9, 13, 15 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambertz in view of Dahlgren (US 6,082,146).

Lambertz teaches a sock as described above in claim 1. However, Lambertz fails to teach air channels provided on the inside of the leg and being connected to the climate channel in the tread area.

In regard to claim 2, Dahlgren teaches a sock characterized in that air channels are provided on the inside of the leg and/or on the outside of the leg of the sock and are connected to at least one climate channel in the tread area (see figure 1, identifiers 33a, 33b).

It would have been obvious to have provided the climate sock of Lambertz with the plurality of air channels in the tread region of Dahlgren, since the climate sock of Lambertz provided with a plurality of air channels in the tread region would provide a

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breathable, comfortable and moisture wicking sock for a user.

In regard to claim 4, Lambertz teaches the climate channels have a curved shape in the tread area (see figure 8).

In regard to claim 8, Lambertz and Dahlgren teach the air channels (33a, 33b) and the climate channels (3) are made of the same wool/cotton material (Lambertz: column 3, lines 32-45)(Dahlgren: column 6, lines 34-46).

In regard to claim 9, Lambertz teaches channels being made of a climate-regulating mesh knit fabric (column 1, lines 26-37).

It would have been obvious to have provided the air channels of Dahlgren out of the mesh knit fabric of Lambertz, since the air channels of Dahlgren made out of a mesh knit fabric would provide a comfortable, breathable and moisture wicking sock for the user.

In regard to claim 13, Lambertz teaches the climate channels (3, 14, 11, 13) are partially tapered (figure 8).

In regard to claim 15, Lambertz teaches the climate channels (3, 14, 11, 13) have an essentially circular cross section.

In regard to claim 21, Lambertz teaches a climate channel (14) in the tread area, the climate channel (14) being connected through a central channel (3) arranged along the longitudinal central axis of the tread area, the climate channel branching off from the central channel (see figure 8).

However, Lambertz fails to teach the a plurality of climate channels in the tread region that intersect with a central channel.

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Dahlgren teaches a plurality of climate channels in the tread region (33a, 33b).

In regard to claim 22, Dahlgren teaches the climate channels (33a, 33b) are curved and branch off on both sides of the central channel (3 of Lambertz) and extend from the central channel (3 of Lambertz) to the outside edge of the tread area.

In regard to claim 23, Dahlgren teaches wherein the climate channels (33a, 33b) have an essentially circular cross section (see figure 1).

It would have been obvious to have provided the climate sock of Lambertz with the plurality of climate channels in the thread region of Dahlgren, since the climate sock of Lambertz provided with a plurality of climate channels in the thread region would provide a breathable, comfortable and moisture wicking sock for a user.

### *Response to Arguments*

6. Applicant's arguments with respect to claims 1-17 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa L. Hoey/



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Primary Examiner, Art Unit 3765